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ceipt of money." In *Ryan v. Paine*, 66 Miss. 678 and *Kinney v. Paine*, 68 Miss. 258 it was held that parties who sent a claim to a bank for collection, which the bank collected by taking the check of the debtor on itself, the debtor having no money in the bank, but merely becoming the bank's debtor by this overdraft, after the insolvency of the bank was declared, had the right to treat their debtor as still such, and enforce their claim to what he owed the bank for account of this transaction. These two cases are not in conflict with the principal case, but can be distinguished from it in the fact that the debtor in the former cases had no funds in the bank, while that in the latter had. The case of *Billingsley v. Pollock*, 69 Miss. 759, 30 Am. St. Rep. 585, is in accord with the principal case.

BILLS AND NOTES—INSTRUMENTS CONSTITUTING NEGOTIABLE NOTES.—D, who purchased certain jewelry of the Barton-Parker Manufacturing Co., signed an obligation in the form of a note, payable to the order of the company, on the same sheet of paper with a written order for the goods, but following after the order and printed between the two were the words, "To be detached and delivered to the shipping department," and immediately under the words and above the obligation was a perforated dotted line. The note was detached, and P was purchaser of it for value before its maturity, and in due course of trade. P brought action on it. *Held*, that the obligation was a negotiable instrument when detached, and P was not subject to the defense that the goods sold were worthless or not such as had been represented by the seller. *Cedar Rapids Nat. Bank v. Barnes* (Tex. Civ. App. 1912), 142 S. W. 632.

No other case exactly similar to the one under discussion has been found nor did the court cite any case to support its decision. The lower court held that the order for the goods and the note sued on constituted one contract, and that the Barton-Parker Manufacturing Co. had no authority to detach and negotiate the latter. The Court of Civil Appeals held that it was the intention of the parties to make the note a negotiable instrument as indicated by the stipulation between the order and the note, "To be detached and delivered to the shipping department," and by the fact that the note was made payable to the order of the Barton-Parker Manufacturing Co. The defense on the ground that the jewelry for the purchase price of which the note was given was worthless cannot be maintained as against P for it is settled that failure of the consideration is no defense as against a bona fide purchaser for value. *Parsons v. Parsons*, 17 Colo. App. 154; *Post v. Abbeville & N. R. Co.*, 99 Ga. 232, 25 S. E. 405; *Clark v. Porter*, 90 Mo. App. 143; *Brown v. Feldwert*, 46 Or. 363, 80 Pac. 414.

CONTRACTS—ARBITRATION CLAUSE.—Assumpsit by a contractor and another against York city to recover a balance on a contract for the construction of a sewer system. The contract gave the city engineer authority to determine the quality, amount, acceptability and fitness of the several amounts of work and materials, and to decide all questions as to the measurement of quantities and the fulfillment of the contract, his conclusion to be the final adjudi-

cation of questions submitted. *Held*, that such a contract is valid and may include the power to determine the right of parties to liquidated damages under the terms of the contract, thus excluding the jurisdiction of the courts. *Ruch v. York City*, (Pa. 1911), 81 Atl. 891.

The rule, which, until recently, prevailed in this country, as well as in England, was that parties to a contract are not bound by an agreement to refer questions under the same to arbitration if such arbitration is to be a final settlement of the disputed point, because the parties cannot oust the courts of their jurisdiction. 2 PARSONS, CONTRACTS, Ed. 4, § 708, citing as authority *Robinson v. Georges Ins. Co.*, 17 Me. 131; *Randel v. Chesapeake & Del. Canal Co.*, 1 Har. (Del.) 233; *Kill v. Hollister*, 1 Wils. 129. Jealousy on the part of the courts, as well as an aversion of the courts, from reasons of public policy, to sanction contracts which have for their object the taking away of the protection which the law affords the individual citizen, are reasons which have been given for this old common law rule. But in England the principles upon which such cases as these have been decided have recently been questioned. *Scott v. Avery*, 36 Eng. L. & Eq. 1, 13. The same is true in the United States in both *Del. Etc. Canal Co. v. Pa. Coal Co.*, 50 N. Y. 250, and *Hood v. Hartshorn*, 100 Mass. 117, the decisions of the courts plainly showing that today the same pious reverence is not felt for litigation in open court that was true in olden times. Later cases have gone still further, and today there are several holding that such contracts, as the one in the principal case, are valid. *Hoste v. Dalton*, 137 Mich. 522; *Connors v. U. S.* 141 Fed. 16, but see *Mitchell v. Dougherty*, 90 Fed. 639; *Chapman v. Kansas City Etc. Ry. Co.*, 114 Mo. 542; *Wortman v. Montana Cent. Ry. Co.*, 22 Mont. 266, 56 Pac. 316, holding that a contract specifying that an engineer was to judge whether the work was properly done was valid, although, if the contract provided for no right of appeal, it would be void because of a statute. Opposed to these decisions, we have a majority of the courts still clinging closely to the common law rule. *Sanitary District v. McMahon & Montgomery Co.*, 110 Ill. App. 510; *Miles v. Schmidt*, 168 Mass. 339, 47 N. E. 115; *Myers v. Jenkins*, (Ohio), 57 N. E. 1089; *Ison v. Wright*, (Ky.), 55 S. W. 202; *National Contracting Co. v. Hudson River Water Power Co.*, 70 N. Y. Supp. 585, affirmed in 73 N. Y. Supp. 1142. Even in the principal case, the court proceeds with caution, for it says, "An agreement of submission is not to be extended by implication beyond its plain words, and a provision therein to submit questions that may arise as to the fulfillment of a contract does not give the right to pass on a claim for damages for nonfulfillment."

CONTRACTS—INDEFINITENESS OF PROMISE.—On a parol promise of the defendant railroad company to grant a special rate for the transportation of passengers between the city and a suburb,—a large tract of property in said suburb belonging to the defendant,—plaintiff's assignor purchased certain of the land from the railroad company. Soon after the purchase an eleven cent round trip ticket to the city was sold, although it was not stated at the time of the above agreement just what the charge would be, nor how long it would be maintained. Eleven months later the fare was raised to twenty-five cents,